

**GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA**

STARRED QUESTION NO:68

ANSWERED ON:21.02.2003

PATENT OF INDIAN ITEMS

RAGHUVANSH PRASAD SINGH;RENUKA CHOWDHURY

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

- (a) whether the Government are aware that the ancient heritage of India like the Vedas, Ayurveda, Gayatri Mantra, Neem, Basmati Rice and curry etc. have been patented in foreign countries;
- (b) whether likewise there is a competition among the foreign countries to get our heritage items like herbs and other traditional items patented;
- (c) if so, the steps taken so far by the Government to check the patentisation of these ancient heritage of our country by the foreigners; and
- (d) the precautions taken in the matter ?

Answer

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY)

(a) to (d) : A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA STARRED QUESTION NO. 68 ANSWER ON 21.2.2003 REGARDING PATENT OF INDIAN ITEMS

(a) and (b) : Intellectual property rights, including patents, are granted under the sovereign prerogative of countries according to their respective Patent Laws and have territorial effect only, that is, they are effective only in the country of grant. Be that as it may, Vedas, Ayurveda, Gayatri Mantra, etc. are prima-facie not patentable under patent laws. Patents are only granted to a process or a product which meets the criteria of patentability, namely, novelty, inventiveness and industrial applicability. The reported patenting of the ancient heritage of India like the Vedas, Ayurveda, Gayatri Mantra, etc. is factually not correct and needs to be distinguished from the usage of such words for trade promotion for which trade marks registration is sought/obtained under appropriate laws by commercial and other organisations.

As and when information is received about patents being obtained on certain items which are not considered patentable and which affect Indian interests, steps are taken to assess whether the grant of such patent can be challenged under the patent laws of the country concerned. Earlier a patent granted in the United States of America on the use of turmeric in wound healing was successfully challenged and was also cancelled by the Patent Office of the country concerned. Similarly, a patent on the fungicidal property of neem, granted in Europe, was successfully challenged. The claims of the patent on Basmati Ricelines and grains granted in the United States of America which had the potential of affecting India's commercial interest were also challenged. The said claims were subsequently cancelled by the United States Patent and Trademark Office and the title of the patent was also amended. A patent is normally challenged by the person(s) whose interests are affected/jeopardised.

(c) and (d) : In order to protect traditional knowledge from being patented, provisions have been incorporated in the Indian Patent law through the Patents (Amendment) Act, 2002, to include anticipation of invention by available local knowledge, including oral knowledge, as one of the grounds for opposition as also for revocation of patent. An invention which, in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components has also been made non-patentable.

In order to protect bio-resources, provisions have been incorporated in the said law for mandatory disclosure of source and geographical origin of the biological material used in the invention while applying for patents in India. Provisions have also been incorporated to include non-disclosure or wrongful disclosure of the same as grounds for opposition and for revocation of the patent, if granted.

Apart from these, Government is also developing a digital database of traditional knowledge in the field of medicinal plants in order to prevent patents being granted incorrectly on such knowledge.